

WILLIAM R. FRANKLIN
LINDA SMITH FRANKLIN

IBLA 90-272

Decided October 16, 1991

Appeal from a decision of the Arcata Resource Area Manager, California, Bureau of Land Management, notifying interested parties of the implementation of a road rehabilitation project for the King Range National Conservation Area. AR-89-19.

Affirmed.

1. Administrative Procedure: Administrative Review--Environmental Quality: Environmental Statements

BLM is responsible for administering the public lands and it must be accorded the discretion necessary effectively to discharge that duty. Where a BLM decision to rehabilitate the Spanish Ridge Road within the King Range National Conservation Area is based on a consideration of all relevant factors, and is supported by the record, which includes an environmental assessment, it may not be overcome by a mere statement of a difference of opinion regarding the necessity for and effect of such action.

APPEARANCES: William R. Franklin and Linda Smith Franklin, Middletown, California, pro sese.

OPINION BY DEPUTY CHIEF ADMINISTRATIVE JUDGE HARRIS

In a notice dated October 31, 1989, the Arcata Resource Area Manager, California, Bureau of Land Management (BLM), informed the public that BLM was "looking at the possibility of rehabilitating seven (7) road systems within the King Range National Conservation Area [KRNCA]," six of which were within wilderness study area (WSA) boundaries in the KRNCA. 1/ The notice solicited public input for the project. Thereafter, BLM completed environmental assessment (EA) No. AR-89-19 which analyzed a proposal to rehabilitate six road systems within the KRNCA boundaries. The Arcata Resource Area Manager and the Ukiah District Manager approved the EA on December 19 and 20, 1989, respectively. In addition, on December 19,

1/ In this case BLM used the term "rehabilitation" to describe actions ranging from mere road closure to complete road obliteration and reclamation of the roadbed.

1989, the Arcata Resource Area Manager signed a Finding of No Significant Impact/Decision Record (FONSI), which was concurred in by the Ukiah District Manager on the following day. The Area Manager stated in the FONSI that he had determined that the proposed action, as mitigated, would not have any significant impacts on the human environment, that no environmental impact statement was necessary, that work performed within the King Range WSA would enhance the area's wilderness characteristics, and that the proposed project was in conformance with the approved land use plans.

On January 11, 1989, the Arcata Resource Area Manager sent separate decisions to parties who had demonstrated an interest or provided input during the environmental review process. The decisions explained that a copy of the EA was enclosed and stated that "the Bureau's decision is to implement the proposed action." Each such decision stated that it was subject to appeal to this Board. William R. and Linda Smith Franklin, as the recipients of a decision, filed a timely appeal thereof.

In their statement of reasons, the Franklins state that they are private inholders within the KRNCA and that they are appealing the decision to close the Spanish Ridge Road, the "Telegraph Ridge connecting road," and removal of the fence on Spanish Ridge. ^{2/} They provide the following five reasons for appealing BLM's decision: (1) the closure will result in the loss of an access road in the case of fire because the Spanish Ridge Road is valuable as a fire control access route on the west slope of the King Range; (2) the closure of the Spanish Ridge Road will result in the loss of a valuable firebreak because the ridge is open grassland which provides a natural fuel break and facilitates control of fire moving either north or south; (3) while the Spanish Ridge Road need not be maintained at a level which would allow public access, it should not be closed or rendered impassable because it provides access to private landholders when the Smith-Etter Road is closed by slides or wash-outs; (4) the fence along the Spanish Ridge Road is of historical value, having been constructed before 1935, and should be preserved; and (5) the expense is unwarranted because removal of the road is likely to cause greater erosion than leaving it in its present condition and allowing time to return the road to its natural state.

In the EA at page 2, BLM outlined the proposed action to be taken on the Spanish Ridge Road system:

The Spanish Ridge road system will involve other areas and types of rehabilitation work besides just road outslowing and contouring. Clean up of old fencing in the Spanish Ridge area will also be part of the rehabilitation effort to improve scenic values. Parts of the old Spanish Flat beach road (.8 miles) and several

^{2/} It is not clear what appellants mean by the "Telegraph Ridge connecting road"; presumably, however, it is part of the Spanish Ridge Road system. Also, we note that the Jan. 11, 1990, decision states that the closure of the Telegraph Ridge Road was not proposed or analyzed in EA AR-89-19.

small spur roads (.3 miles) off of the Telegraph and Smith-Etter roads will be rehabilitated by removing the road prism entirely or resloping major erosion and drainage problem areas (see map 2). A foot trail will be developed on the major portion of the Spanish Ridge Road being proposed for rehabilitation/closure which will essentially connect Spanish Flat beach area to Cooksie Ridge.

Appellants' complaints do not warrant reversal of BLM's decision to proceed with the project as it relates to Spanish Ridge Road. Appellants' concerns regarding the loss of fire access and a firebreak were considered, if not explicitly, at least implicitly, in the King Range Fire Management Plan approved by the Area Manager in May 1986 and thereafter approved by the Ukiah District Manager and concurred in by the Ranger-in-Charge, California Department of Forestry (CDF), CDF being under contract with BLM to fight fires in the King Range. ^{3/} The Fire Management Plan provided that in the event of fire in the King Range, dozers would be allowed to travel only on existing roads to ensure access for fire fighters and equipment. At the time of approval of that plan, BLM's King Range Transportation Plan, approved January 23, 1986, noted, regarding the Spanish Ridge Road, that it had been officially closed in May 1985 because it was unsafe for public uses. ^{4/} The plan designated the road as closed to all vehicle use, providing the following rationale:

This road is unsafe for all types of vehicle use; it is very steep, narrow, and frequently washes out. The 1974 King Range Management Plan recommended that this road be closed and used as a hiking trail. The road is located in zone 2, designated for primitive types of recreation.

(Transportation Plan at 10). Therefore, it is clear that both BLM and State personnel believed that closure of the Spanish Ridge Road would not inhibit their ability to fight fires in the KRNCA.

The fact that appellants would like the Spanish Ridge Road to remain open to provide alternative access does not establish any error in BLM's determination to rehabilitate that road. Further, BLM's decision to remove the fence on Spanish Ridge is supported by the discussion in the EA, set forth above, and by a memorandum to the file from the Area Archaeologist, following a January 12, 1990, inspection of the Spanish Ridge Road area, stating that "the fencing is partly metal and partly redwood posts strung with wire; a lot of the fence is lying on the ground with the wire creating a hazard to animals." Finally, appellants' claim that the expense of road removal is unwarranted is merely their opinion. BLM has exercised its discretion to utilize funds as explained in the EA at page 1:

^{3/} Under his signature on the statement of reasons, William R. Franklin describes himself as "CDF, Heavy Fire Equipment Operator."

^{4/} See California Wilderness Coalition, 101 IBLA 18, 29 (1988), vacated in part, California Wilderness Coalition, 105 IBLA 196 (1988), for a detailed discussion of the Transportation Plan.

In 1989 the Bureau of Land Management (BLM) obtained 5320 funds (Repair of Damaged Lands) to be used to rehabilitate Wilderness and Wilderness Study Area (WSA) as first priority and rehabilitate damaged forest land as second priority. The overall goal of wilderness management as addressed in the Interim Management Plan for the King Range WSA is to assure the WSA retains its [sic] wild and natural characteristics as much as possible. This includes restoring the wilderness character when it has been damaged by human use.

BLM also provided a rationale for proceeding with the rehabilitation rather than relying only on the forces of nature:

This action will, in the long run, enhance the area's suitability as wilderness. *
 * * Overall the road rehabilitation effort will help accelerate the healing process on man's disturbance in the KRNCA and WSA with the probability of successful rehabilitation being high.

* * * * *

The rehabilitation efforts associated with this proposed project will not create major land disturbances that will cause any mass landslides. Under current conditions, compacted soils limit natural vegetation growth on roads in the WSA. Rehabilitation measures will create conditions where natural vegetation can invade very quickly reducing not only visual and erosion impacts to WSA values but will decrease the propensity of major road failures causing mass landslides or torrent debris slides.

Cumulative erosion and visual impacts associated with roads, road use and road failures will be greatly reduced after the proposed rehabilitation measures are completed.

(EA at 6).

[1] BLM is responsible for administering the public lands, and it must be accorded the discretion necessary effectively to discharge that duty. Where a BLM decision concerning management of the public lands is based on a consideration of all relevant factors and is supported by the record, which includes an environmental assessment, it may not be overcome by a mere statement of a difference of opinion regarding proper management. See Wilderness Society, 90 IBLA 221, 232 (1986); Oregon Shores Conservation Coalition, 83 IBLA 1, 5 (1984). Appellants have failed to establish error in BLM's determination to rehabilitate the Spanish Ridge Road and remove the fencing in that area. The arguments presented by appellants are differences of opinion regarding the necessity for and effect of the proposed rehabilitation. They are insufficient in this case to overcome BLM's determination to proceed with rehabilitation which is adequately supported by the record.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris
Deputy Chief Administrative Judge

I concur:

Gail M. Frazier
Administrative Judge